

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DOVAL JORDAN and)	
BRITTANY WILKINS,)	
)	
Plaintiffs,)	Case No. 07 C 6195
)	
v.)	
)	
LARRY RATTLER, DAVID BIRD,)	Judge Joan H. Lefkow
MICHAEL E. LIPSEY, JEROME DOMICO,)	
JR., RICHARD SANCHEZ, JR., UNKNOWN)	Magistrate Judge Valdez
NUMBER OF UNNAMED OFFICERS OF)	
THE CHICAGO POLICE DEPARTMENT,)	
and CITY OF CHICAGO,)	JURY TRIAL DEMANDED
)	
Defendants.)	

**DEFENDANTS' JOINT MOTION TO WITHDRAW THEIR
MOTION TO DISMISS COUNT VI OF PLAINTIFFS' COMPLAINT**

____ Defendant City of Chicago, by its attorney Rita C. Moran, Assistant Corporation Counsel for the City of Chicago, and Defendant Officers Larry Rattler, David Bird, Michael E. Lipsey, Jerome Domico Jr., and Richard Sanchez Jr., by Marc J. Boxerman, one of their attorneys, respectfully move this Court for leave to withdraw their Motion to Dismiss Count VI of Plaintiffs' Complaint. In support of this motion, Defendants state as follows:

1. On April 30, 2008, Defendants filed a Joint Motion to Dismiss Count VI of Plaintiffs' Complaint With Prejudice. Count VI pleads an Illinois state law claim of conversion based on a sum of money taken from Doval Jordan pursuant to a search incident to Mr. Jordan's arrest. Defendants filed their motion under the theory that this claim was time-barred because Plaintiffs filed this claim after the expiration of the one-year statute of limitations. Plaintiffs filed

their complaint on November 2, 2007, over one year after the search and confiscation of money upon which Count VI is predicated.

2. Research conducted by the Defendants for a reply brief in support of their motion to dismiss indicates that the cause of action for conversion did not arise at the time this money was taken from Mr. Jordan, but on November 2, 2006, the day criminal proceedings against Mr. Jordan terminated. *See Gates v. Towery*, 435 F.Supp.2d 794, 800-01 (N.D. Ill. 2006). Plaintiffs filed their complaint on November 2, 2007. While Plaintiffs waited until the very last day before expiration of the statute of limitations for this state law claim, *Gates* suggests the claim is timely.

3. In the interest of judicial economy and in light of *Gates*, Defendants respectfully seek leave to withdraw their motion to dismiss.

WHEREFORE, Defendants respectfully request that this Court grant Defendants leave to withdraw their motion to dismiss Count VI of Plaintiffs' Complaint.

Respectfully submitted,

By: /s/ Marc J. Boxerman
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CERTIFICATE OF SERVICE

I certify that I have caused true and correct copies of the above and foregoing Motion and Notice of Motion to be served upon the person(s) named in the Notice of Motion, who is a "Filing User" pursuant to ECF, in accordance with the rules of electronic filing of documents, on June 26, 2008.

/s/ Marc J. Boxerman
MARC J. BOXERMAN